

IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 4:18-cr-00011
)	
MARCUS JAY DAVIS)	
<i>Et al.</i>)	

UNITED STATES' NOTICE OF ADDITIONAL DISCOVERY

The United States respectfully provides this notice to the Court of additional discovery items provided to Discovery Counsel on June 10, 2019. The contents of that discovery and the grounds for this Notice are as follows:

1. This Court ordered the government to “substantially complete all pretrial discovery by April 1, 2019.” Third Amended Scheduling Order, ECF No. 364, ¶ 2. As the Order reflects and this Court has recognized orally at various status hearings, criminal discovery can be an ongoing process. Even though the Order does not require *all* discovery by the April 1 deadline, the government has treated the Order as if it did, and worked to disclose all discovery and *Jencks* materials before that date. Some of those efforts have been discussed at prior hearings. *E.g.*, Minute Entry, ECF Nos. 154, 262.

2. As detailed in a prior Notice of Additional Discovery, on April 4, 2019 (ECF No. 391), the United States provided what it believed to the last of its discovery and had repeatedly been assured by the Federal Bureau of Investigation that the discovery was complete. Despite these representations, the United States has made supplemental discovery disclosures to Discovery

Counsel after the April 1 deadline and has provided notice to the Court of these supplemental filings. To assure the Court that it believed discovery was then complete, at the last April status hearing, the United States requested the appearance of the FBI Senior Supervisory Special Agent responsible for this investigation.

3. On June 7, 2019, a co-conspirator pled guilty in the related gang case, *United States v. Anthony et al*, case no. 4:18-cr-00012. The next business day, on June 10, 2019, the United States disclosed to Discovery Counsel its Production 18, which is comprised of eleven documents. Ten documents are the *Jencks* and *Giglio* materials related to this co-conspirator. The final document is a two-page FBI report reflecting the creation of a cellphone trial exhibit and is not, technically, discovery.

4. The release of these documents almost eight months before trial does not prejudice the defendants. As has been its policy, the government will alert the Court by similar notice of any additional discovery.

WHEREFORE, the United States hereby respectfully provides the Court with notice of additional discovery.

Respectfully submitted,

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DATED: June 11, 2019

CERTIFICATE

I hereby certify that a true and correct copy of the foregoing has been electronically filed with the Clerk by CM/ECF system, which will send notification of such filing to all counsel of record, on this 11th day of June, 2019.

s/Heather L. Carlton